

Regular Session, 2006

SENATE BILL NO. 340

BY SENATOR CAIN

CRIME/PUNISHMENT. Creates the crime of selling violent or sexually explicit video games to minors.

AN ACT

To enact R.S. 14:91.2, relative to violent or sexually explicit video games; to prohibit the sale or rental of any violent or sexually explicit video game to a minor; establishes labeling requirements for violent or sexually explicit video games; to provide for criminal penalties; to provide for certain exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:91.2 is hereby enacted to read as follows:

**§91.2. Unlawful sale or rental of violent or sexually explicit video games**

**A. This Section shall be cited as the "Prevention of Youth Access to Violent or Sexually Explicit Video Games Law."**

**B. The legislature hereby finds the following:**

**(1) Minors who play violent video games are more likely to:**

**(a) Exhibit violent, asocial, or aggressive behavior.**

**(b) Experience feelings of aggression.**

**(c) Experience the reduction of activity in the frontal lobes of the brain**

**which is responsible for controlling behavior.**

1                   (2) Sexually explicit video games are inappropriate for minors.

2                   (3) While the video game industry has adopted its own voluntary  
3                   standards describing which games are appropriate for minors, recent events  
4                   have revealed that those standards are not easily understood by customers nor  
5                   adequately enforced.

6                   (4) Minors are capable of purchasing and do purchase violent or sexually  
7                   explicit video games.

8                   (5) The state has a compelling interest in preventing violent, aggressive,  
9                   and asocial behavior in minors. The state, further, has a compelling interest in  
10                  suppressing any negative societal factors that may inhibit the psychological and  
11                  neurological development of its youth and a compelling interest in facilitating  
12                  the maturation of Louisiana's children into well-meaning, productive, and law-  
13                  abiding adults.

14                  C. For the purposes of this Section, the following definitions shall apply:

15                  (1) "Minor" means a person under eighteen years of age.

16                  (2) "Person" means an individual, corporation, partnership, or limited  
17                  liability company.

18                  (3) "Sexually explicit video games" means:

19                  (a) Video games that the average person, applying contemporary  
20                  community standards would find, with respect to minors, is designed to appeal  
21                  or pander to the prurient interest and depicts or represents in a manner  
22                  patently offensive with respect to minors, an actual or simulated sexual act or  
23                  sexual contact, an actual or simulated normal or perverted sexual act or a lewd  
24                  exhibition of genitals or post-pubescent female breasts.

25                  (b) Video games which are rated "AO" for "Adults Only" by the  
26                  Entertainment Software Rating Board or its successor for its sexually explicit  
27                  content.

28                  (4) "Video game" means an object or device that stores recorded data  
29                  or instructions, receives data or instructions generated by a person who uses it,

1 and, by processing the data or instructions, creates an interactive game capable  
2 of being played, viewed, or experienced on or through a computer, gaming  
3 system, console, or other technology.

4 (5) "Video game retailer" means a person who sells, rents or distributes  
5 video games to the public.

6 (6) "Violent video games" means:

7 (a) Video games which include realistic depictions of human on human  
8 violence in which the player of the video game kills, seriously injures, or  
9 otherwise causes physical harm to another human, including but not limited to  
10 depictions of death, dismemberment, amputation, maiming, disfigurement,  
11 mutilation of body parts, or rape.

12 (b) Video games that are rated "AO" for "Adults Only" by the  
13 Entertainment Software Rating Board, or its successor, for its violent content.

14 D. It shall be unlawful for any video game retailer to sell, rent or  
15 distribute one or more violent video games to a minor.

16 E. It shall be unlawful for any video game retailer to sell, rent or  
17 distribute one or more sexually explicit video games to a minor.

18 F. Every video game retailer shall make available to any customer, upon  
19 request, a copy of the video rating system, created by the Entertainment  
20 Software Rating Board, or its successor.

21 G. Every video game retailer who sells or rents video games shall post  
22 a sign in type, not less than 30-point type, that reads as follows: "LOUISIANA  
23 LAW PROHIBITS THE SALE OR RENTAL OF VIOLENT OR SEXUALLY  
24 EXPLICIT VIDEO GAMES TO PERSONS UNDER THE AGE OF  
25 EIGHTEEN. The video game rating system, created by the Entertainment  
26 Software Rating Board, is available at the checkout counter to aid in the  
27 selection of a game." This sign shall be prominently posted in, or within five  
28 feet of, the area in which games are displayed for sale, rent or distribution, at  
29 the information desk, if one exists, and at the point of purchase, rental or

1        distribution.

2                H. Every video game retailer shall label all violent videos with a solid  
3        white label that reads "Age 18 Only" in black. The "Age 18 Only" shall have  
4        dimensions of not less than two inches by two inches and shall be displayed on  
5        the front face of the video package.

6                I. Every video retailer shall label all sexually explicit videos with a solid  
7        white label that reads "Age 18 Only" in black. The "Age 18 Only" shall have  
8        dimensions of not less than two inches by two inches and shall be displayed on  
9        the front face of the video package.

10               J. (1) It is unlawful for any minor to purchase or rent any violent video  
11        game.

12               (2) It shall not be unlawful for a minor to purchase or rent a violent  
13        video game if the minor purchasing or renting the violent video game is  
14        accompanied by a parent, spouse or legal guardian twenty-one years of age or  
15        older.

16               K. (1) It is unlawful for any minor to purchase or rent any sexually  
17        explicit video game.

18               (2) It shall not be unlawful for a minor to purchase or rent a sexually  
19        explicit video game if the minor purchasing or renting the sexually explicit video  
20        game is accompanied by a parent, spouse or legal guardian twenty-one years of  
21        age or older.

22               L. (1) Any video game retailer who violates the provisions of this Section  
23        by selling or renting a violent video game or a sexually explicit video game to a  
24        minor shall be fined not more than fifty dollars for the first offense. The  
25        penalties for the subsequent violation shall be not more than five hundred  
26        dollars for the second offense or any subsequent violations.

27               (2) Any minor who violates the provision of this Section by purchasing  
28        or renting a violent video game or a sexually explicit video game shall be fined  
29        not more than fifty dollars for the first offense and not more than one hundred

**dollars for the second offense or any subsequent violations.**

**(3) A violation of the requirements of Subsection F, G, H or I shall be deemed a violation by the owner of the establishment where the violation occurred and shall be fined not more than five hundred dollars for the first offense and not more than one thousand dollars for each additional offense.**

Section 2. The provisions of this Act are severable. If any provision or Subsection of this Section is held invalid or suspended, such invalidity or suspension shall not affect other provisions or Paragraphs of this Section.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Carla S. Roberts.

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#### DIGEST

Proposed law creates the "Prevention of Youth Access to Violent or Sexually Explicit Video Games Law."

Proposed law states that the Legislature finds the following:

- (1) Minors who play violent video games are more likely to:
  - (a) Exhibit violent, asocial, or aggressive behavior.
  - (b) Experience feelings of aggression.
  - (c) Experience the reduction of activity in the frontal lobes of the brain which is responsible for controlling behavior.
- (2) Sexually explicit video games are inappropriate for minors.
- (3) While the video game industry has adopted its own voluntary standards describing which games are appropriate for minors, recent events have revealed that those standards are not easily understood by customers nor adequately enforced.
- (4) Minors are capable of purchasing and renting and do purchase and rent violent and sexually explicit video games.
- (5) The state has a compelling interest in preventing violent, aggressive, and asocial behavior in minors. The state, further, has a compelling interest in suppressing any negative societal factors that may inhibit the psychological and neurological development of its youth and a compelling interest in facilitating the maturation of Louisiana's children into well-meaning, productive, and law-abiding adults.

Proposed law creates the crime of selling or renting violent or sexually explicit video games to minors. A video game retailer who sells or rents a violent or sexually explicit video game to a minor would be subject to a fine of not more than \$50 for the first offense and not more than \$500 for each subsequent offense.

Proposed law makes it a crime for a minor to purchase or rent a violent or sexually explicit video game. A minor who purchases or rents a violent or sexually explicit video game

would be subject to a fine of not more than \$50 for the first offense and not more than \$500 for each subsequent offense.

Proposed law requires video game retailers to label video games which are sexually explicit or violent with a solid white label and black writing which reads "Age 18 Only." Proposed law further requires video game retailers to post a sign within 5 feet of the place where the video games are displayed, at the information desk, if one exists, and at the point of purchase, rental or distribution, which sign is not less than 30-point type and reads as follows:

"WARNING: LOUISIANA LAW PROHIBITS THE SALE OR RENTAL OF VIOLENT OR SEXUALLY EXPLICIT VIDEO GAMES TO PERSONS UNDER THE AGE OF EIGHTEEN. A video game rating system, created by the Entertainment Software Rating Board, is available at the checkout counter to aid in the selection of a game."

Proposed law provides that noncompliance by the video game retailer regarding the labeling of violent or sexually explicit video games and noncompliance regarding posting the warning sign shall be deemed a violation by the owner of the establishment and subject the owner to a fine of not more than \$500 for the first offense and not more than \$1,000 for each additional offense.

Proposed law defines "sexually explicit video game" as follows:

- (1) Video games that the average person, applying contemporary community standards would find, with respect to minors, is designed to appeal or pander to the prurient interest and depicts or represents in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act or a lewd exhibition of genitals or post-pubescent female breasts.
- (2) Video games which are rated "AO" for "Adults Only" by the Entertainment Software Rating Board for its sexually explicit content.

Proposed law defines violent video games as follows:

- (1) Video games which include realistic depictions of human on human violence in which the player of the video game kills, seriously injures, or otherwise causes physical harm to another human, including but not limited to depictions of death, dismemberment, amputation, maiming, disfigurement, mutilation of body parts, or rape.
- (2) Video games that are rated "AO" for "Adults Only" by the Entertainment Software Rating Board for its violent content.

Proposed law provides that if any provision or paragraph of this law is held invalid or suspended, such invalidity or suspension shall not affect other provisions or paragraphs of the law.

(Adds R.S. 14:91.2)